

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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BILL DRAFT 2011-RBz-2 [v.1] (11/29)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
11/30/2010 2:39:19 PM

Short Title: No Delay of Tax Refunds.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED
AN ACT TO PROHIBIT DELAY IN THE PAYMENT OF TAX REFUNDS.

Whereas, in both 2009 and 2010 the Governor delayed the payment of tax refunds owed to the taxpayers of this State; and

Whereas, interest does not begin to accrue on an individual income tax refund unless the State pays the refund after May 30; and

Whereas, delaying the payment of tax refunds due North Carolina's taxpayers forces the taxpayers to make involuntary short-term interest-free loans to the State; and

Whereas, tax refunds should not be considered assets of the State but should instead be considered funds held in trust; and

Whereas, the State Constitution and the General Statutes give the Governor the tools needed to avoid a deficit in an economic downturn; and

Whereas, these tools do not include the delay of tax refunds because tax refunds are not "expenditures" that are subject to reduction or management by the Governor; and

Whereas, the cost of short-term financing by the State is less than the interest the State must pay on delayed tax refunds; and

Whereas, delaying the payment of tax refunds due North Carolina's taxpayers shifts the stress of an economic downturn from the State's budget to the State's taxpayers; and

Whereas, the law requires a taxpayer to pay taxes owed by the due date, regardless of the cash position of the taxpayer on the due date; and

Whereas, taxpayers have a right to expect prompt payment of their refunds; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-258.3. Taxpayer refunds.

An overpayment of tax belongs to the taxpayer who made the overpayment and is not an expenditure that is subject to management by the Director of the Budget. When the Department approves a refund for payment and submits a requisition to the State Controller for the funds needed to make the refund, the State Controller may not withhold approval of the requisition."

SECTION 2. G.S. 143C-6-2(b) reads as rewritten:

"(b) Revenue Collections. – The Director, with the assistance of the Secretary of Revenue and other officials collecting or receiving appropriated State revenue, shall



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1 continuously survey the revenue collections. If the Director finds that revenues to any fund,
2 when added to the beginning unreserved fund balance in that fund, will be insufficient to
3 support appropriations from that fund, the Director shall immediately notify the General
4 Assembly that a deficit is anticipated. The Director shall consult with the Chief Justice to
5 identify expenditure reductions and other lawful measures the Chief Justice and Judicial Branch
6 can implement to reduce expenditures. The Director shall report in a timely manner to the
7 General Assembly a plan containing the expenditure reductions and other lawful measures as
8 the Director is implementing in order to avert the deficit. This section does not authorize the
9 Director to delay the payment of tax refunds in violation of G.S. 105-258.3."

10 **SECTION 3.** This act is effective when it becomes law.